

DELEGATED REPORT

Report by Helen Pressley	Date of report: 18/01/2021	Ref: 66136/FUL
Registration: 28/10/2020	LDfC: 03/12/2020	Expiry Date: 23/12/2020
Site Visit: 12/11/2020	Site Notice: 12/11/2020	Press Date: 12/11/2020
Objections: 2	Con Area: MARY	Adv Type: CA
Reason for Delay: N/A		EIA: NA Dec Level: DEL Stat Class: COUS

Proposal: Change of use from open land to residential garden and erection of railings along Shrewsbury Road.

Location: Land adjacent to Shrewsbury House, Lowther Road, Prestwich, Manchester, M25 9QG

Description

The application relates to a strip of land adjacent to Shrewsbury House. The strip of land is Shrewsbury House is a large detached house located on a corner plot along Lowther Road and is within St Marys Conservation Area. It has a low wall along the front with tall hedges to the rear of it which screen the house. The vehicular access is off Lowther Road where there are stone pillars and metal gates which are set in from the footpath. It has garden to both sides and a patio area to the rear. In addition to its setting within the Conservation Area it is included on the Council's Draft Local List and is described as, *Pre 1891. Restored Victorian grand house. 3 storeys in brick with large extensions. Multi pitched slate roof. Overhanging eaves and verges with brackets at eaves. Projecting bays to gf front and with central doorway with porch. Rendered at rear.* Recent planning permissions have seen the building be restored and with extensions to the rear of a modern design with large expanses of glazing and render.

Planning permission is sought for the change of use of the strip of land to residential curtilage. It is proposed to install a row of metal railings along the frontage with Shrewsbury Road. These railings would reach a height of approximately 1.4 metres and be set back from the highway by approximately 1 metres. To the rear of the railings it is proposed to introduce a 3 metre high holly, beech and laurel hedge to the front of a stretch of existing fencing that currently denotes the dwelling's boundary. The existing herringbone wall would also be retained in-situ.

Relevant Planning History

55537 - Erection of 4 no. detached dwellings and extensions and refurbishment to Shrewsbury House - Withdrawn by Applicant 25/09/2012

55663 - Erection of 4 no. detached dwellings and extensions and refurbishment to Shrewsbury House (resubmission) - Withdrawn by Applicant 28/11/2012

55858 - Refurbishment and extension of Shrewsbury House and construction of 4 no. detached dwellings with access and associated works. - Approve with Conditions 28/02/2013

56691 - Variation of condition No 2 (Plans). of approved planning permission 55858 - Amendment to layout and extensions to the development at Shrewsbury House. - Approve with Conditions 25/03/2014

58704 - Variation of condition no. 2 (approved plans) of planning permission 55858 to

amend the construction type and position of section of retaining wall - Withdrawn - Invalid
28/07/2015

63343 - Automatic entrance gates to the driveway - Approve with Conditions 14/12/2018
63861 - First and second floor extensions at rear; Excavation to form new basement room
with new bi-folding door opening at side - Approve with Conditions 13/05/2019

65752 - Erection of a timber clad concrete and timber fence along Shrewsbury Road -
Withdrawn by Applicant 29/09/2020

65797 - Variation of condition no. 2 (approved plans) of planning permission 63861 for
additional basement space - Approve with Conditions 28/09/2020

Publicity

Neighbour letters sent 06/11/2020. Following the receipt of amended plans further letters
sent 21/12/2020.

Site Notice 12/11/2020.

Press Notice 12/11/2020.

2 objections received from 44 Shrewsbury Road and 48 Shrewsbury Road in relation to:

- The unregistered land to which the application relates is actually part of the road and has a public right of way over it
- I am concerned that allowing this part of the carriageway to be turned into private garden sets a dangerous precedent for the rest of Shrewsbury Road which has changed immeasurably in character in the last 8 years. The proposed wall/ fence/ hedge arrangement could only be considered an enhancement to the Conservation Area by virtue of the fact that it would disguise the changes already made to the land without planning permission by the Applicant.
- There is clearly no public benefit to the proposal that would outweigh its harm to the character and appearance of the conservation area.
- With reference to previous communications with bury council relating to this site.

Statutory/Non-Statutory Consultations

Traffic Section - Does not want to restrict the grant of planning permission.

Conservation Officer - no response. Previously highlighted that the Up until the recent changes to the boundary treatment of Shrewsbury House, along Shrewsbury Road, the boundary treatment has been characterised by a low stone wall constructed in a herringbone style with a high hedgerow behind it. This boundary treatment is original and largely intact and unaltered. This boundary treatment is positive contributor to the setting of the NDHA and the character and appearance of the St. Mary's Conservation Area. The unauthorised The retention of the fence in which either form it takes, clad or unclad together with the railing represents a development which is urbanising and utilitarian in its design and appearance and as such represents an incongruous feature in the conservation area.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

EN2/2	Conservation Area Control
EN1/2	Townscape and Built Design
H2/3	Extensions and Alterations
EN2/1	Character of Conservation Areas
SPD6	Supplementary Planning Document 6: Alterations & Extensions
NPPF	National Planning Policy Framework

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Use

The proposed development involves the change of use of open land to residential garden. The area of land is unused, and the ownership of the land is unknown. Currently, there is a stretch of unauthorised fencing and railings enclosing this area, with a herringbone wall and planting to the rear. The applicant seeks to change the use of this area of land to residential. It is proposed to remove the unauthorised fencing and railings and to replace with railings set further back from the highway and to introduce a stretch of hedgerow to provide screening. . As the land is unallocated in the UDP, the principle of the proposed change of use to residential garden would be acceptable.

Conservation Area and Visual Amenity

UDP Policies EN2/1 - Character of Conservation Areas and EN2/2 - Conservation Area Control seek to preserve or enhance the character and appearance of these areas.

Development will only be acceptable if it preserves or enhances these areas with regard to the nature of the development in terms of bulk, height, materials, design, relationship to the surrounding area, and impact of a new use on the character of the surrounding area.

Proposals where appropriate should seek to implement measures to retain, replace, restore features of architectural interest, retain and enhance landscaping features, promote environmental enhancement and promote design guidelines to ensure sympathetic development.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty upon Local Planning Authorities that when considering development in such areas there is a desirability to preserve or enhance such designated areas.

NPPF Paragraphs 192 to 196 similarly reinforces the importance of Listed Buildings, Conservation Areas and Heritage Assets.

These paragraphs set out how the LPA must consider the impacts of development upon heritage assets with regard to sustaining and enhancing the significance of heritage assets and great weight should be given to the assets conservation.

In addition to the Conservation Area policy considerations SPD 6 notes that boundary enclosures should respect the character of the street scene. In addition to this UDP Policies EN1/2 and H2/3 seek to prevent unacceptable adverse effect on the particular character and townscape of the Borough's towns, villages and other settlements.

The use of the land would change to residential. Given that the character of the locality is residential, and the it is considered that the change of use would preserve the character of the Conservation Area.

The site boundaries within the immediate vicinity are depicted by a mixture of materials including fencing, herringbone walling, and hedgerows. The boundary treatment for the dwelling known as Shrewsbury House has been characterised by a low stone wall constructed in a herringbone style with a high hedgerow behind it. The removal of the existing unauthorised fencing and railings would improve the character of the area, and lead to the removal of alien features that detract from the character of the Conservation Area. The proposed black railings would lead to a permeable enclosure with views to the hedgerow behind that would preserve the "leafy" character of the Conservation Area. This hedgerow would also screen the area of timber fencing to the rear that currently introduces a more urban.

The proposal is considered acceptable and would not harm the character of the important adjacent building and as such is considered to preserve the character of the Conservation Area.

Residential Amenity

SPD 6 and H2/3 seek to reduce the impact of proposals on the residential amenity of neighbouring properties.

The proposed railings would be separated from No. 48 Shrewsbury Road an unadopted highway, and from No. 8 Lowther Road by an adopted highway. Whilst the proposed boundary would project beyond the front boundary of No. 69 Shrewsbury Road the front boundary wall, side fencing and gates associated with this property are higher than the railings proposed and as such it is considered that this existing boundary treatment would have more of an impact on this property, than the proposed railings. Given the intervening highways and boundary treatments it is considered that the proposal would not impact on the residential amenity of the neighbouring occupiers.

Highways

The Traffic Section has no objections to the proposal. Therefore, the proposed development would not be detrimental to highway safety and would be in accordance with Policy EN1/2 of the Bury Unitary Development Plan.

Response to Neighbours

Whilst the land is unregistered, the applicant has signed certificate D and advertised the proposal in the local press as required. The site does not form part of the adopted highway, and there is no registered public right of way along Shrewsbury Road - it is an unadopted road. An area of land is retained as a footway to the north of the proposed railings and laid

One neighbour has objected with the following comments "With reference to previous communications with bury council relating to this site." Unfortunately, it is unclear which communications this references, and some of these communications may be confidential and not accessible to the case office. A phone call was made to this objector and message left but no further communication was received. The objection to the development however has been logged.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings numbered 13767/32 A, 13,767/30 A and 13,767/31 G and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.
- 3 The unauthorised concrete fencing and metal railings shall be removed from site within 2 months of grant of planning permission.
Reason. In the interests of the visual amenity of the area pursuant to Bury MBC Unitary Development Plan EN1/2 - Townscape and Built Design; EN2/1 - Character of Conservation Areas and EN2/2 - Conservation Area Control.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Helen Pressley	18/01/2021	DM	18/01/2021